

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

GENE A. McLENITHAN, JR.,

Petitioner,

v.

JEAN HILL,

Respondent.

MOSMAN, J.,

No. 3:07-cv-00761-SU

OPINION AND ORDER

On July 20, 2017, Magistrate Judge Patricia Sullivan issued her Findings and Recommendation (“F&R”) [53], recommending that Petitioner’s Motion for Relief from Judgment [51] should be DENIED. Petitioner Gene A. McLenithan, Jr. objected [55].

DISCUSSION

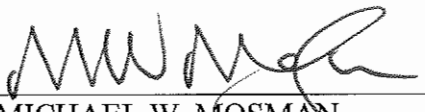
The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See*

Thomas v. Arn, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

I agree with Judge Sullivan's recommendation and ADOPT the F&R [53] as my own opinion. Petitioner's Motion for Relief from Judgment [51] is DENIED.

IT IS SO ORDERED.

DATED this 11 day of October, 2017.



MICHAEL W. MOSMAN
Chief United States District Judge